

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 9, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Maui

Cancellation of Land License No. S-340 to Hana Trucking & Equipment Co., and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Kawaipapa, Hana, Maui, Tax Map Key: (2) 1-3-006:015.

PURPOSE:

Cancellation of Land License No. S-340, to Hana Trucking & Equipment Co. and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

Section 171-11, 13, and 54, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kawaipapa situated at Hana, Maui, identified by Tax Map Key: (2) 1-3-006:015, as shown on the attached map labeled Exhibit A.

AREA:

14.0 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: Yes ____ NO x

CHARACTER OF USE:

Dig, excavate, use and/or sell rock.

COMMENCEMENT DATE OF Land License:

Commenced on: August 31, 2001.

ANNUAL RENT:

\$330.00

REMARKS:

Pursuant to a Board of Land and Natural Resources' approval of November 20, 1998, under item D-23, the Land License S-340 was issued to Hana Trucking & Equipment Co. ("Licensee") effective as of August 31, 2001. Included in the terms of the license agreement was a requirement for execution of a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) prior to termination of the subject license.

Maui District Land office received written request for termination of Land License S-340 from Mr. Clyde Kahula, General Partner of Hana Trucking & Equipment Company. Refer to his correspondence dated May 24, 2011, Exhibit B. Subsequently, Staff notified Mr. Kahula of the required Phase (1) Hazardous Waste Evaluation.

Mr. Curtis Powers of the Department of Land and Natural Resources, Engineering Division and the Maui District office land agent conducted a site inspection of the licensed area on June 23, 2011. The property appeared to be in a clean and acceptable condition with no signs of hazardous waste or other contaminants. Recommendations were provided to tenant for leveling of small rock piles to natural grade and restoration of ground surface area to meet the surrounding land's contour.

Hana Trucking & Equipment Co.'s letter dated July 11, 2011, (refer to Exhibit C) requested a waiver of the Phase 1 Hazardous Waste Evaluation requirement. Clyde Kahula advised that their company has complied with all State, Federal, and County rules and regulations with regards to environmental protection. He further indicated that they have never stored any equipment, hazardous waste oil, or fuel on the subject property.

On October 14, 2011, Mr. Kahula contacted the Maui District office via telephone to advise staff that he had completed the recommended work within the former license area. All rock piles had been leveled off as instructed, and equipment and property belonging to Hana Trucking & Equipment Co. removed.

A final inspection was conducted of the subject license area on October 19, 2011. During this inspection, staff verified and confirmed compliance with requirements of the license and found that the property had been restored to an acceptable condition.

In regards to the Level One Hazardous Waste Evaluation requirement, the Department strongly recommends that this requirement not be waived. As the property has been subject to industrial uses under the license, including the presence of heavy machinery, the steps taken by the Department and the licensee are not sufficient to 1) adequately determine the presence of hazardous materials in the license area and 2) fulfill the CERCLA all appropriate inquiry standard that provides immunity to the Department in regards to the

presence of hazardous materials. If the Board approves the waiver of this requirement, the Department may incur both legal and financial liability merely to absolve the licensee of a relatively minor financial responsibility.

Staff is further requesting Board approval for the cancellation of the License effective the date of August 31, 2011.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Land License No. S-340 per the request of the licensee in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Land License No. S-340 to be applied to any past due amounts;
3. Require the Licensee to pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, including without limitation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department;
3. Terminate the Land License and all rights of Licensee and all obligations of the Licensee effective as of August 31, 2011, provided that any and all obligations of the Licensee which have accrued up to said effective date or which are stated in the lease to survive cancellation shall endure past such cancellation date until duly fulfilled, and further provided that Licensee reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Land License No. S-340 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,




Larry Pacheco, Land Agent

BLNR - Cancellation
of Land License
No. S-340

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APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



[illegible][illegible]

Parcels Dropped: 1, 11, 14, 19

SECOND DIVISION		
ZONE	SEC.	PLAT
1	3	06
CONTAINING PARCELS		
1. SGALE: 11a = 400 ft.		

1 3 06

May 24, 2011

RECEIVED
MAUI DISTRICT
LAND DIVISION

2011 AUG -4 PM 2: 09

State of Hawaii
Department of Land and Natural Resources
Division of Land Management
54 South, High Street, Room 101
Wailuku Hawaii 96793

Attn: Daniel Ornellas
Maui District Land Agent

Subject: Land License No. S-340 Hana Trucking & Equipment Co.
Hana Maui Hawaii (2) 1- 3 - 06: 15

Aloha Mr. Ornellas,

Hana Trucking & Equipment Co. would like to terminate the lease agreement we have with the State of Hawaii Depart of Land and Natural Resources for Land License No. S-340 effective August 31, 2011. Due to the high cost of living in Hana and our uncertain economy we can no longer feasibly mine material on this parcel for the new base rate of \$4,670.00 per annum.

Hana Trucking & Equipment Co. does appreciate the opportunity we have had leasing this parcel from the State of Hawaii Department of Land and Natural Resources in these past years.

Please do not hesitate to contact me should you wish to discuss this termination request.

Mahalo,



Clyde N. Kahula, Partner
Hana Trucking & Equipment Co.
P.O. Box 741
Hana, HI 96713
(808) 248-7302

Exhibit B

July 11, 2011

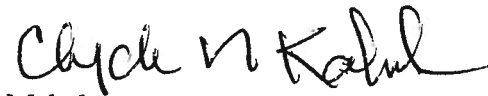
RECEIVED
MAUI DISTRICT
LAND DIVISION

2011 AUG 17 PM 12: 55

State of Hawaii
Department of Land and Natural Resources
Division of Land Management
54 South, High Street, Room 101
Wailuku Hawaii 96793

Attn: Daniel Ornellas
Maui District Land Agent

Hana Trucking & Equipment Co. request permission to wave phase 1 hazardous waste evaluation on Land License No. S-340 Tax Map Key (2) 1-3-006:015. In all the years Hana trucking has leased this parcel we complied with all State, Federal and County rules and regulation. We have never stored any equipment hazardous waste oil, or fuel on this property. This property was used just to mine rock. In June 2011 Mr. Curtis Powers along with Mr. Pacheco from DLNR were onsite to evaluate what was needed to be done to turn property back over to the state. On this visit both Mr. Powers and Mr. Pacheco could not find or see any evidence of hazardous material stored or otherwise. Hana Trucking & Equipment Co. would like for who ever is involved in this process to consider our request. Aloha



Mahalo
Clyde N Kahula

EXHIBIT "C"